

SENATE BILL 2103

By Bell

AN ACT to amend Tennessee Code Annotated, Title 39;
Title 40 and Title 55, relative to driving under the
influence.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as "Bentley's Law."

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 13, Part 2, is amended by
adding the following as a new section:

(a) Notwithstanding any law to the contrary, if a defendant is convicted of a
violation of § 39-13-213(a)(2) or § 39-13-218 and the deceased victim of the offense was
the parent of a minor child, then the sentencing court shall order the defendant to pay
restitution in the form of child maintenance to each of the victim's children until each
child reaches eighteen (18) years of age and has graduated from high school, or the
class of which the child is a member when the child reached eighteen (18) years of age
has graduated from high school.

(b) The court shall determine an amount that is reasonable and necessary for
the maintenance of the victim's child after considering all relevant factors, including:

(1) The financial needs and resources of the child;

(2) The financial resources and needs of the surviving parent or guardian
of the child, including the state if the child is in the custody of the department of
children's services;

(3) The standard of living to which the child is accustomed;

(4) The physical and emotional condition of the child and the child's
educational needs;

(5) The child's physical and legal custody arrangements; and

(6) The reasonable work-related child care expenses of the surviving parent or guardian.

(c) The court shall order that child maintenance payments be made to the clerk of court as trustee for remittance to the child's surviving parent or guardian. The clerk shall remit the payments to the surviving parent or guardian within three (3) working days of receipt by the clerk. The clerk shall deposit all payments no later than the next working day after receipt.

(d) If a defendant who is ordered to pay child maintenance under this section is incarcerated and unable to pay the required maintenance, the defendant must have up to one (1) year after the release from incarceration to begin payment, including entering a payment plan to address any arrearage. If a defendant's child maintenance payments are set to terminate but the defendant's obligation is not paid in full, the child maintenance payments shall continue until the entire arrearage is paid.

(e)

(1) If the surviving parent or guardian of the child brings a civil action against the defendant prior to the sentencing court ordering child maintenance payments as restitution and the surviving parent or guardian obtains a judgment in the civil suit, no maintenance shall be ordered under this section.

(2) If the court orders the defendant to make child maintenance payments as restitution under this section and the surviving parent or guardian subsequently brings a civil action and obtains a judgment, the child maintenance order shall be offset by the amount of the judgment awarded in the civil action.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it, and applies to offenses committed on or after that date.